

TRAINING AND EMPLOYMENT NOTICE	NO. 30-08
	DATE March 4, 2009

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE LABOR COMMISSIONERS
STATE UI DIRECTORS

FROM: DOUGLAS F. SMALL 
Deputy Assistant Secretary

SUBJECT: Overview of the Employment and Training Administration's implementation strategy for Workforce Investment Act and Wagner-Peyser funding under the American Recovery and Reinvestment Act of 2009

1. Purpose. The American Recovery and Reinvestment Act of 2009 (The Recovery Act) was signed into law by President Obama on February 17, 2009. The Employment and Training Administration (ETA) will issue formal guidance to all states within 30 days of enactment for implementation of the Workforce Investment Act (WIA) and Wagner-Peyser funding under the Recovery Act. This notice describes the initial plans ETA has developed for implementing these programs under the Recovery Act. Formal guidance is forthcoming.

2. References.

- Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.)
- Workforce Investment Act (WIA) of 1998, as amended (29 U.S.C. 2801 et seq.)
- WIA Regulations, 20 CFR parts 652 and 660-671
- The American Recovery and Reinvestment Act of 2009 (P. L. 111-5), Division A, title VIII
- Planning Guidance and Instructions for Submission of the Strategic State Plan and Plan Modifications for Title I of the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act (73 FR 72853 (Dec. 1, 2008)) (OMB No. 1205-0398)
- TEGL No. 7-08, "Instructions for Workforce Investment Act and Wagner-Peyser Act State Planning and Waiver Requests for Year Five of the Strategic Five-Year State Plan (Program Year 2009)
- Jobs for Veterans Act Final Rule, 20 CFR part 1010 (73 Fed. Reg. 78132 (Dec. 19, 2008))
- WIA Adult, Youth, Dislocated Worker, National Emergency Grants (OMB No. 1205-0420)

3. Background and Strategic Vision for Recovery Act Implementation. The American Recovery and Reinvestment Act of 2009 (The Recovery Act) is intended to preserve and create

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jobs, promote the nation's economic recovery, and assist those most impacted by the recession. The Recovery Act provides the U.S. Department of Labor and the public workforce investment system with unprecedented levels of funding for a number of employment and training programs to help Americans acquire new skills and get back to work, including:

- \$500,000,000 for grants to the States for adult employment and training activities;
- \$1,200,000,000 for grants to the States for youth activities, including summer employment for youth;
- \$1,250,000,000 for grants to the States for dislocated worker employment and training activities;
- \$200,000,000 for the dislocated worker assistance national reserve;
- \$400,000,000 for Wagner-Peyser activities; \$250,000,000 of those funds are to support reemployment services for unemployment insurance claimants;
- \$50,000,000 for YouthBuild activities; and
- \$750,000,000 for a program of competitive grants for worker training and placement in high growth and emerging industry sectors, \$500,000,000 of which are for research, labor exchange and job training projects that prepare workers for careers in energy efficiency and renewable energy as described in section 171(e)(1)(B) of the WIA.

The Recovery Act also includes funding for the Senior Community Service Employment Program (SCSEP), and Unemployment Insurance (UI); provides two new targeted populations for the Work Opportunity Tax Credit (WOTC) program; and expands and reauthorizes the Trade Adjustment Assistance program. Information on the implementation of these provisions is being issued separately.

If the workforce system is to meet both the letter and the spirit of the law and fulfill its critical role in the U.S. economic recovery, we must implement the Act expeditiously and effectively, with full transparency and accountability of our expenditure of funds. But the Recovery Act provides more than an injection of workforce development resources into communities in need across the country. This significant investment of Recovery Act funds presents an extraordinary and unique opportunity for the workforce system to advance its transformational efforts and demonstrate its full capacity to innovate and implement effective One-Stop service delivery strategies. As states and localities plan how their One-Stop systems will make immediate use of the Recovery Act funds, ETA strongly encourages them to take an expansive view of how the funds can be integrated into efforts to improve the effectiveness of the public workforce system. In this system, the needs of workers and employers are equally important in developing thriving communities where all citizens succeed and businesses prosper. Successful implementation of the Recovery Act includes not only quick and effective provision of services and training for workers in need, but also leveraging changes in the system's basic operations to develop a strong, invigorated, innovative public workforce system capable of helping enable future economic growth and advancing shared prosperity for all Americans.

In a stronger, more comprehensive workforce investment system, adults move easily between the labor market and education and training in order to advance in their careers and upgrade their contributions to the workplace, while disconnected youth are able to reconnect through multiple pathways to education and training opportunities necessary to enter and advance in the workforce. Adult education, job training, postsecondary education, registered apprenticeship, career advancement and supportive service activities are fully aligned with economic and

community development strategies, so as to meet the skill needs of existing and emerging employers and high growth occupations as well as the needs of under-skilled adults. Under such a dual-customer approach, seamless career pathways would be developed and offered, and support services and needs-based payments would be available, making it far easier for young people and adults to advance and persist through progressive levels of the education and job training system as quickly as possible and gain education and workforce skills of demonstrated value at each level. Education and training at every level would be closely aligned with jobs and industries important to local and regional economies. Every level of education and training would afford students and trainees the ability to advance in school or at work, with assessments and certifications linked to the requirements of the next level of education and employment.

With this infusion of funding, states, and local areas should consider how their funding decisions and implementation activities for Recovery Act funds can help achieve this goal of workforce system transformation. ETA encourages states and local areas to adopt practices that advance this vision, and intends to use a portion of the competitive grant funds to incentivize the implementation of such innovative and effective approaches to training and employment services.

4. Key Features of Recovery Act Implementation. While detailed Recovery Act implementation guidance is forthcoming, there are several key features of the law that states should familiarize themselves with and integrate into their preliminary planning activities.

- *Transparency and Accountability.* The Recovery Act emphasizes transparency and accountability at all levels. To that end, the federal government is establishing policies and procedures to ensure that all Americans can understand how Recovery Act funds are spent, and to what end. Accountability guidelines for the Recovery Act emphasize data quality, streamlining data collection, and collection of information that shows measurable program outputs. It also emphasizes transparency and frequent communication with the American public about the nature of the Recovery Act investments. Accordingly, ETA is developing reporting guidelines for Grantees that will minimize any new collection burdens yet provide timely and accurate accounting of system performance and outcomes. An upcoming Recovery Act Performance and Reporting Training and Employment Guidance Letter (TEGL) will convey how Grantees are to collect and report information.
- *Expedited and effective use of funds, with expenditures made concurrently with regular formula funds.* Congress intends that Recovery Act funds for employment and training be spent concurrently with standard formula funds to greatly increase the capacity of the workforce system to serve workers in need. Thus ETA expects states to provide services and training to significantly greater numbers of individuals over the next 18 months using strategies that meet immediate needs while supporting longer term economic recovery. WIA section 182(e) requires states to make funds available to local areas within 30 days of allotment. In recognition of the immediate needs for funds to be deployed, ETA encourages states to devise a local planning process that provides an opportunity to plan for the most effective use of Recovery Act funds while not delaying the rapid allocation of funds to local areas within the 30-day time frame. For example, where changes to the local plans are needed, states may choose to modify existing plans rather than require the submission of new plans.

- *Emphasis on training and innovative and invigorated service delivery strategies.* Both the Recovery Act and Conference Report language emphasize that employment and training funds should be primarily spent on services and training, and ETA expects states and local areas to keep administrative expenditures to a minimum. Service delivery strategies should be focused on innovative and effective approaches that both meet the demands of today's economy and result in an improved workforce system for tomorrow's global economy.
- *Emphasis on services for hard-to-serve populations and needs-related payments.* The Recovery Act requires that priority use of WIA Adult program funds shall be for services to recipients of public assistance and other low-income individuals as described in WIA section 134(d)(4)(E). It also requires states to ensure that supportive services and needs-related payments are available to support the employment and training needs of these priority populations, consistent with the requirements outlined in WIA. States should also assure that supportive services and needs-related payments are available to dislocated workers. The increased funds for supportive services and needs-related payments address a significant impediment to workers' willingness to access training that they need to meet their long term career needs.

In addition to the elements above, the following principles further guide the workforce system in successfully meeting the goals of the Recovery Act:

- Substantial increase in numbers of customers served and receiving training;
- Investments connected to economic growth objectives through regional sector strategies aligned with economic development, education, including community colleges, business and labor organizations, and other partners for high-growth industries such as green jobs, healthcare and advanced manufacturing;
- Dual customer focus: supply-side workers and demand-side business needs for skills and talent; and
- Approaches to reach low income and low skills customers so they may share in economic prosperity, including engaging with community-based organizations.

5. Distribution of Funds. To carry out the intent of the Recovery Act, the federal government must allot WIA and Wagner-Peyser formula funds within 30 days of enactment. Within that timeframe, ETA will issue a Training and Employment Guidance Letter (TEGL) describing allotments to states for WIA Adult, Dislocated Worker and Youth funds, and Wagner-Peyser Act funds. ETA will issue the necessary grant award documents so that funds will be available to states as soon as possible but no later than March 19, 2009. States are advised to begin planning now to quickly and effectively put the funds to their intended use, including how the state can obligate funds to the local areas within 30 days of receipt of funds so they can begin to increase numbers and types of services immediately. States should also examine how the personnel hired with Recovery Act funds can be exempt from state hiring freezes to ensure their ability to completely fulfill their obligations under the Recovery Act. States should note that the Program Year (PY) 2009 annual funding agreements for WIA Title I activities will be issued on the normal funding schedule.

The distribution schedule for YouthBuild and high-growth competitive grant funds is still under development, and will be designed to best balance a need for quick funding with the opportunity

to support training that aligns with other Recovery Act infrastructure development projects. ETA anticipates that a significant portion of the high-growth competitive grant funds will be used to support training and workforce development in the area of green jobs, consistent with the Recovery Act. The remaining funds will be competitively awarded to support worker training and placement in high growth and emerging industry sectors, with a priority for health care. Guidance on the distribution of the \$200 million allocated for the national reserve account is forthcoming.

6. Life of Funds. Pursuant to the Recovery Act, the period of availability for WIA and Wagner-Peyser funds is February 17, 2009 through the end of PY 2010 (June 30, 2011), in accordance with existing terms and conditions of the PY 2008 funding agreement. States must obligate Wagner Peyser funds by September 30, 2010 and funds must be expended by the end of PY 2010 (June 30, 2011). WIA funds may be obligated through the entire period of availability and must be expended by June 30, 2011. However, states are expected to spend Recovery Act funds quickly and effectively. It is the intent of Congress and the Administration that the majority of these funds will be utilized within the first year of availability.

7. Planning for 2009 Summer Youth Activities. The Recovery Act expressly identifies summer employment for youth as a use of the WIA Youth formula funds and the legislative history clearly provides that “the conferees are particularly interested in these funds being used to create summer employment opportunities for youth.” ETA strongly encourages states and local areas to use a significant portion of these funds to operate expanded summer youth employment opportunities during the summer of 2009, and to provide as many youth as possible with summer employment opportunities and other work experiences outside of the summer months, while still ensuring that these summer employment opportunities and work experiences are of high quality. Given the short timeframe for 2009 summer youth implementation, states and local areas are encouraged to begin planning for summer employment immediately and to begin procuring necessary vendors to carry out summer employment. States and local areas should explore expedited procurement processes under current state and local law. Where existing processes are a barrier to rapid implementation, states and local areas may contact ETA regional offices to explore the use of waivers to facilitate the rapid implementation of summer employment. States and locals may begin their eligibility determination process for summer 2009 participants immediately. As stated in section 6, all costs incurred as early as February 17, 2009 may be covered by Recovery Act Funds. ETA will provide additional guidance as part of the state plan modification process.

8. Changes to the State Plan Modification and Waiver Request Process. ETA intends to award Recovery Act funds within 30 days of enactment on the basis of the states’ currently approved PY 2007-2008 WIA/Wagner-Peyser Strategic State Plans. For the upcoming Program Year, State Planning TEGL No. 7-08, “Instructions for Workforce Investment Act and Wagner-Peyser Act State Planning and Waiver Requests for Year Five of the Strategic Five-Year State Plan (Program Year 2009),” issued in December 2008, required states to submit either a request for extension or modification for PY 2009 by April 15. In order to ensure that all states have an approved State Plan in place at the beginning of PY 2009, ETA will be requiring states to submit a request for a one-year extension by April 15. As is currently outlined in TEGL No. 7-08, the extension request should also include the state’s request to extend its current performance goals or propose new levels of performance and a request for any waivers the state wishes to temporarily extend.

WIA regulations require states to submit a State Plan modification when changes in federal or state law or policy substantially change the assumptions upon which the plan is based, or when states' vision, strategies or policies change (20 CFR 661.230). ETA considers the current economic climate and the availability of new appropriations under the Recovery Act to be a substantial event requiring such a modification. Additionally, the Recovery Act requires the Secretary of Labor to establish planning and reporting procedures necessary to provide oversight of funds used for reemployment services. Adequate oversight is also a clear policy goal in several of the Act's accountability and transparency provisions. Given the dramatic changes in states' economic conditions since the submission of their PY 2007-2008 Plans and the infusion of new funds, ETA will be requiring states to submit a modification to their WIA/Wagner-Peyser Act State Plan, to be due no later than June 30, 2009. States that originally planned to submit a modification on April 15 to describe changes in their state are encouraged to include that information with the modification that is due by June 30, 2009. States are authorized to expend Recovery Act funds under existing plans and need not wait for approval of this modification to implement new service strategies and spend Recovery Act funds.

ETA requests that states include the governor's priorities and key strategies for Recovery Act funds, along with priorities and key strategies for the use of the combined funds to achieve One-Stop system transformation in a State Plan modification due June 30, 2009. ETA will ask states to submit a stand-alone document that responds to a list of questions drawn from the State Planning Guidance. States should also feel free to integrate the responses into the Plan itself, as well as to examine the entire State Plan and make other modifications as needed. ETA anticipates making the Recovery Act plans available to the public on the www.doleta.gov Web site and potentially on an overarching Recovery Act Web site, and so wishes to alert states now to the public information significance of the Plans they will submit.

The list of questions to which states must respond in their modification will be specified in the forthcoming State Plan modification guidance, and will include the governor's priority for the use of the Recovery Act funds; training for high growth industries such as green jobs and health care; implementation of the newly-funded reemployment services; implementation of the adult, dislocated worker and youth activities portion of the Recovery Act, including the creation of summer jobs for youth; and oversight and monitoring for local area use of Recovery Act funds. State Plan modifications will also need to address how states are meeting the requirements of the Jobs for Veterans Act Final Rule on priority of service for veterans and certain spouses at 20 CFR 1010 published at Fed. Reg. 78132 on December 19, 2008. ETA would remind states that modifications of state plans are subject to the requirement for public comment.

All currently approved waivers apply to Recovery Act funds, with limited exceptions. The forthcoming State Plan modification guidance will articulate ETA's policy on waiver applicability to Recovery Act funds and will clarify that three waivers will not apply to Recovery Act funds, because ETA believes they are contrary to the Congressional intent for funding provided by the Recovery Act:

1. Waiver of the funds transfer limit between Adult and Dislocated Worker programs.

2. Waiver of the limitation on the use of funds for capitalization of businesses at WIA section 181(e).
3. Waiver to permit the state to use a portion of rapid response funds to conduct incumbent worker training.

ETA will be reviewing all current waivers to determine their continued necessity for PY 2009. When states submit their extension request by April 15, 2009, ETA plans to temporarily approve those waivers for PY 2009. With the State Plan modification due by June 30, 2009, ETA will be requiring states to submit a full waiver plan for all waiver requests, both current and new. ETA will then review all waiver requests and approve or disapprove waivers by September 30, 2009.

9. Assessing System Readiness. To support the quick and effective use of Recovery Act funds, ETA Regional Offices will collaborate with states to assess system readiness in the near term, recovery act progress over time, and program transformation. This assessment will focus on One-Stop systems and policies that support effective utilization of and accounting for these new funds, as well as identifying best practices and other innovative ideas to share throughout the One-Stop system.

10. Timeline. The timeline below outlines planned dates for guidance from ETA and due dates for states.

February 17	Enactment of the Recovery Act.
Week of March 2	Grant agreement amendments sent to state grantees ETA publishes allotments TEGL
Week of March 9	States must return the signed version of the grant agreement
Week of March 16	ETA publishes policy guidance on Recovery Act Funds ETA publishes guidance on State Plan modifications Funds are available to states through a Notice of Obligation
April 15	States submit extension request for PY 2009 State Plan, waiver extension requests, and proposed levels of performance
Late Spring	ETA publishes guidance on reporting
June 30	States submit PY 2009 State Plan modification

11. Action Requested. States are encouraged to broadly share this notice with local Workforce Investment Boards and other stakeholders, and to begin planning now for the quick and effective use of Recovery Act funds.

12. Inquires. Inquiries should be addressed to the appropriate regional office or to the Employment and Training Administration through a special email address established for this purpose: eta.stimulus@dol.gov. ETA will monitor this account daily, and may respond to inquiries directly or through general communications such as official guidance, Webinars, and public Q&A documents.